

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SUZANNE GENEREUX, et al.,

Plaintiffs,

v.

AMERICAN BERYLLIA CORP., et al.,

Defendants.

Case No. 04-cv-12137 JLT

SWORN STATEMENTS UNDER LOCAL RULES 26.1(B) and 26.2(A)

I, Marjie Sands, controller and duly authorized agent and representative of the defendant, Hardie Laboratories, Inc., in connection with the above-captioned matter, do swear under oath to the following matters as required pursuant to the provisions of Local Rules 26.1(B) and 26.2(A) of the U.S. District Court of the District of Massachusetts, following my diligent inquiry as to facts and documents known to me and to personnel employed at said defendant's premises:

1. Only five persons employed by Hardie Laboratories, Inc., in or about 1990 when it appears that the plaintiffs' claims allegedly arose, remain so employed and have any information pertinent to Beryllium products created at Hardie Laboratories, Inc. They are Roger Johnson of 357 Baldwinville Road, Templeton, MA 01468, Peter Richard of 35 Riley Switch Road, Phillipston, MA 01331, David Hood of 24 Adams Road, Dracut, MA 01826; Francis

David Hood of 24 Adams Road, Dracut, MA 01826; Francis Mazzarini of 12 Bither Avenue, Waltham, MA 02453; and Dan Hallisey (who retired in September 2005 and is now deceased) of 4 Mitchell Street, Sharon, MA 02067. Mr. Johnson, Mr. Richard, Mr. Hood and Mr. Mazzarini can be reached at Hardric's facility located in North Chelmsford, MA, telephone # (978) 251-1702. Each of those persons will testify that Hardric did not supply any beryllium-related products to any of the parties to this litigation. They will also testify that the beryllium product that left Hardric's plant at around the time in question in this litigation was in the solid form of a hard mirror, had no residue, and was accompanied by a warning in bright orange affixed to the bottom of each individual mirror that stated: "WARNING BERYLLIUM. Hazardous Dust Produced When Machined, Filed or Ground. HANDLE WITH CARE." A second label affixed to the top of each individual mirror box contains the serial number, customer name, our company name and address, product name and product number, and "WARNING BERYLLIUM."

There were other persons employed by Hardric at the time the plaintiffs' claims allegedly arose, but their current whereabouts and telephone numbers are unknown. Those persons include Philip A. Kraysler, formerly of 41 Connell Street, Newton, MA 02162 (but now believed to be living somewhere in Florida); Steve

Jerry Moreno (address unknown, who was associated with two different social security numbers that we are not at liberty to disclose without court authorization), Leroy Chandonait (deceased), late of 131 Hardy Pond Road, Waltham, MA 02154; James R. Clafin, last known to be of 47 Washington Street, Mendon, MA 01756; and James R. Croteau, last known to be at 81 Emerald Street, Gardner, MA 01440.

2. A copy of the aforementioned warning is being provided to all counsel of record.
3. To date Hardie has incurred a total \$12,549.52 in legal expenses associated with its defense. It is unaware of any other financial damages or losses attributable to this litigation for which it claims entitlement to reimbursement except, perhaps, in connection with a subsequent lawsuit against the Plaintiffs based on abuse of process.
4. My investigation and understanding as to the status of insurance reveals that current and past errors and omissions policies purchased by Hardie do not cover the type of claims asserted by the plaintiffs in this litigation.
5. Based on my information and belief, Roger Johnson, Peter Richard, David Hood and Francis Mazzarini, all named above, would be the most knowledgeable witnesses on behalf of Hardie concerning this litigation. They would rule out any connection between Hardie and any of the parties to this case, and they would

rule out the presence of any Beryllium dust associated with Hardric's product at the time the plaintiffs' claims allegedly arose.

6. At this time, Hardric intends to introduce in these proceedings, as may be necessary, a copy of the warning associated with its solid form hand mirror described above and any and all other documents produced by any other party to this case during the course of discovery or at trial that Hardric may deem appropriate. Hardric reserves the right to identify further documents and exhibits as evidence upon the giving of reasonable notice to counsel and as the identity of such exhibits may become known during the course of discovery.

7. Hardric is unaware of any statement by any officer, director or employee of any of the opposing parties or of the plaintiffs, relating in any way to Hardric's defenses and claims in this case.

8. Hardric is unaware of any government agencies or officials who have investigated any claims which are the subject of this litigation.

9. Hardric Laboratories, Inc. reserves the right to depose all witnesses deposed by any other party in this litigation, and demands that it be given adequate notice and an opportunity to participate in connection with each such deposition.

Signed under the pains and penalties of perjury on this 31st day of October,

2005



Marjie Sands, Controller
Hardie Laboratories, Inc.
P.O. Box 129
N. Chelmsford, MA 01863

COMMONWEALTH OF MASSACHUSETTS

October 31, 2005

Personally appeared before me the above-named **MARJIE SANDS** and made oath to the truth of the foregoing Sworn Statement and that the information contained therein is based upon her personal knowledge, information and belief, and insofar as upon information and belief, she believes such information to be true, her free act and deed, and the free act and deed of the defendant, Hardie Laboratories, Inc.

My Notary Commission

Expires On: _____



Notary Public **DEBORAH A. HANSEN**
Printed Name **NOTARY PUBLIC - MAINE**
MY COMMISSION EXPIRES 07/14/2011